

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

WILLIAM DAVIDSON HAMBY, JR. ]  
Plaintiff, ]  
] v. ] No. 3:12-0942  
] JUDGE HAYNES  
KAY LINGLE ]  
Defendant. ]

M E M O R A N D U M

Plaintiff, William Davidson Hamby, Jr., an inmate at the Davidson County Criminal Justice Center in Nashville, filed this action under 42 U.S.C. § 1983 against the Defendant Kay Lingle, an automobile dealer in Madison, Tennessee. Plaintiff seeks injunctive relief and damages. Plaintiff alleges that the defendant "stole, copied and read aloud in court my personal medical papers/records". Plaintiff suffers from hepatitis-C, a condition marked by an inflammation of the liver.

For a Section 1983 claim, Plaintiff must allege the deprivation of a right or privilege secured by the Constitution or laws of the United States that was caused by a person acting under color of state law. Flanory v. Bonn, 604 F.3d 249, 253 (6<sup>th</sup> Cir. 2010).

The Defendant Lingle is a private individual who is not alleged to have acted under color of state law. Whatever Lingle

may have revealed about Plaintiff's medical condition in open court, a witness who testifies in a court proceeding is immune from a damages action. Briscoe v. LaHue, 460 U.S. 325 (1983). Thus, the Court concludes that Plaintiff has failed to state a claim upon which § 1983 relief can be granted.

If prisoner Plaintiff proceeding *in forma pauperis*, fails to state a claim upon which relief can be granted, the Court must dismiss the action *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order if filed herewith.

  
WILLIAM J. HAYNES, JR.

Chief District Judge

8-18-12